

§ 4.1202

(c) If no request for the scheduling of a hearing has been made pursuant to paragraph (a) or (b) of this section and 60 days have elapsed from the filing of the application for review with OSM, the applicant may file on his own behalf a request for the scheduling of a hearing with the main office of OHA. Where such a request is made, the applicant shall proceed on his own behalf, but OSM may intervene pursuant to § 4.1110.

§ 4.1202 Response to request for the scheduling of a hearing.

(a) Any person served with a copy of the request for the scheduling of a hearing shall file a response with the Hearings Division, OHA, Arlington, Va., within 20 days of service of such request.

(b) If the alleged discriminating person has not filed an answer to the application, such person shall include with the response to the request for the scheduling of a hearing, a statement specifically admitting or denying the alleged facts set forth in the application.

§ 4.1203 Application for temporary relief from alleged discriminatory acts.

(a) On or after 10 days from the filing of an application for review under this part, any party may file an application for temporary relief from alleged discriminatory acts.

(b) The application shall be filed in the Hearings Division, OHA, Arlington, Va.

(c) The application shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A showing that the complaint of discrimination was not frivolously brought;

(3) A description of any exigent circumstances justifying temporary relief; and

(4) A statement of the specific relief requested.

(d) All parties to the proceeding to which the application relates shall have 5 days from receipt of the application to file a written response.

(e) The administrative law judge may convene a hearing on any issue raised

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by the application if he deems it appropriate.

(f) The administrative law judge shall expeditiously issue an order or decision granting or denying such relief.

(g) If all parties consent, before or after the commencement of any hearing on the application for temporary relief, the administrative law judge may order the hearing on the application for review of alleged discriminatory acts to be advanced and consolidated with the hearing on the application for temporary relief.

§ 4.1204 Determination by administrative law judge.

Upon a finding of a violation of section 703 of the act or 30 CFR 865.11, the administrative law judge shall order the appropriate affirmative relief, including but not limited to—

(a) The rehiring or reinstatement of the applicant to his former position with full rights and privileges, full backpay, and any special damages sustained as a result of the discrimination; and

(b) All other relief which the administrative law judge deems appropriate to abate the violation or to prevent recurrence of discrimination.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 61510, Oct. 1, 2002]

§ 4.1205 Appeals.

Any party aggrieved by a decision of an administrative law judge concerning an application for review of alleged discriminatory acts may appeal to the Board under procedures set forth in § 4.1271 *et seq.*

APPLICATIONS FOR TEMPORARY RELIEF

§ 4.1260 Scope.

These regulations contain the procedures for seeking temporary relief in section 525 review proceedings under the act. The special procedures for seeking temporary relief from an order of cessation are set forth in § 4.1266. Procedures for seeking temporary relief from alleged discriminatory acts are covered in § 4.1203.